

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

IN RE: ZETIA (EZETIMIBE) ANTITRUST
LITIGATION

MDL No. 2:18-md-2836

THIS DOCUMENT RELATES TO:
ALL DIRECT PURCHASER ACTIONS

**DECLARATION OF THOMAS M. SOBOL IN SUPPORT OF DIRECT PURCHASER
PLAINTIFFS' MOTION FOR CLASS CERTIFICATION**

I, Thomas M. Sobol, hereby declare as follows:

1. I am a member of the bar of the Supreme Judicial Court of the Commonwealth of Massachusetts and of the United States District Court for the District of Massachusetts and have been admitted *pro hac vice* to this Court.¹ I am the managing partner of the Boston office of Hagens Berman Sobol Shapiro LLP, counsel for plaintiff FWK Holdings LLC (“FWK”) and interim lead counsel for the putative direct purchaser class in this matter.
2. I submit this declaration in support of the direct purchaser class plaintiffs’ Motion for Class Certification.

3. Attached hereto are true and accurate copies of the following exhibits cited in the Motion for Class Certification:

Exhibit No.	Description
Exhibit 1	Declaration of Jeffrey Leitzinger Ph.D., dated November 18, 2019.

¹ See Order Granting Motion to Appear *Pro Hac Vice* by Thomas M. Sobol, January 24, 2018, ECF No. 6.

Exhibit 2	Document MRKZETIA SIDLEY000129955, FDA Approval Letter, dated October 25, 2002.
Exhibit 3	Document SPV-PATAAT019984, Press Release from Merck, dated August 13, 2004.
Exhibit 4	Document GLENMARK-ZETIA-0014842, Glenmark Abbreviated New Drug Application, dated October 25, 2006.
Exhibit 5	Document GLENMARK-ZETIA-00265422, Glenmark Paragraph IV letter, dated January 23, 2015.
Exhibit 6	Document GLENMARK-ZETIA-00056715, Distribution Agreement.
Exhibit 7	Document GLENMARK-ZETIA-00242734, Settlement Agreement.
Exhibit 8	Document MRKZETIA_R000061858, email from Vijay Soni to Paul Matukaitis, dated February 26, 2010.
Exhibit 9	Document GLENMARK-ZETIA-00201568, email from Terrance Coughlin to Glenn Saldahna, dated May 11, 2010.
Exhibit 10	An excerpt of the October 15, 2019 deposition of Timothy Hester.
Exhibit 11	An excerpt of the October 18, 2019 deposition of Paul Matukaitis.
Exhibit 12	Document MRKZETIA000874087, letter from Lisa A. Jakob addressed to Glenmark's Chief IP Counsel, dated June 8, 2016.
Exhibit 13	Document MRKZETIA000614647, letter from Brian Hirsch addressed to Lisa A. Jakob, dated July 21, 2016.
Exhibit 14	Document GLENMARK-ZETIA-00261523-24, email from Achin Gupta to Glenn Saldanha, dated May 12, 2010.
Exhibit 15	Document GLENMARK-ZETIA-00261530-34, email from Achin Gupta, dated May 11, 2010.
Exhibit 16	Document GLENMARK-ZETIA-00261273-328, email from Achin Gupta, dated May 28, 2010.
Exhibit 17	Document GLENMARK-ZETIA-00435581, Summary of Assessment of Ezetimibe Settlement Agreement, dated May 10, 2010.
Exhibit 18	Document MRKZETIA000509809, Merck-Prasco Supply and Distribution Agreement for Authorized Generic Zetia, dated October 20, 2016.
Exhibit 19	Excerpts of the September 26, 2019 deposition of David Pakula.
Exhibit 20	Document MRKZETIA000511408, Merck-Prasco Supply Team Meeting Minutes, dated April 19, 2017.

Exhibit 21	Document MRKZETIA000510456, email from Jennifer Greenberg to David Pakula, dated October 19, 2017.
Exhibit 22	Excerpts of the August 14, 2019 deposition of Thomas Kolschowsky.
Exhibit 23	Document FWK-ZETIA-0000004-19, marked as exhibit 15 at the deposition of Thomas Kolschowsky.
Exhibit 24	Excerpts of the September 10, 2019 deposition of Michael Stahelin.
Exhibit 25	Notice of 30(b)(6) Deposition, dated June 6, 2019.
Exhibit 26	Document MRKZETIA000510501-504, email discussing forecast for Merck AG, dated January 27, 2016.
Exhibit 27	Document MRKZETIA000509917, projections regarding April versus June AG Launch.
Exhibit 28	Document of the Federal Trade Commission Staff Study, <i>Pay-for-Delay: How Drug Company Pay-Offs Cost Consumers Billions</i> , dated January 2010.
Exhibit 29	Document by IMS Consulting, <i>Report to PhRMA, Assessment of Authorized Generics in the U.S.</i> 16 (2006)
Exhibit 30	Document PAR_00002319, internal Par PowerPoint presentation
Exhibit 31	Document PAR_00004800, email from Paul Campanelli, dated February 29, 2010.
Exhibit 32	Direct Purchaser Class Plaintiffs' Proposed Trial Plan

Dated: November 18, 2019



Thomas M. Sobol
 HAGENS BERMAN SOBOL SHAPIRO LLP
 55 Cambridge Parkway, Suite 301
 Cambridge, MA 02142

Dated: November 18, 2019

/s/ William H. Monroe, Jr

William H. Monroe, Jr. (VSB No. 27441)
Marc C. Greco (VSB No. 41496)
Kip A. Harbison (VSB No. 38648)
Michael A. Glasser (VSB No. 17651)
GLASSER AND GLASSER, P.L.C.
Crown Center, Suite 600
580 East Main Street
Norfolk, VA 23510
Telephone: (757) 625-6787
Facsimile: (757) 625-5959
bill@glasserlaw.com
marcg@glasserlaw.com
kip@glasserlaw.com
michael@glasserlaw.com

*Local Counsel for Direct Purchaser Plaintiffs
FWK Holdings, LLC, Rochester Drug
Cooperative, Inc., Cesar Castillo, Inc. and the
Proposed Direct Purchaser Class*

Thomas M. Sobol
Kristen A. Johnson
Edward Notargiacomo
Hannah Schwarzschild
Bradley Vettraino
HAGENS BERMAN SOBOL SHAPIRO LLP
55 Cambridge Parkway, Suite 301
Cambridge, MA 02142
Telephone: (617) 482-3700
Facsimile: (617) 482-3003
tom@hbsslaw.com
kristenj@hbsslaw.com
ed@hbsslaw.com
hannahs@hbsslaw.com
bradleyv@hbsslaw.com

*Lead Counsel for the Proposed Direct
Purchaser Class*

John D. Radice
RADICE LAW FIRM, P.C.
475 Wall Street
Princeton, NJ 08540

Sharon K Robertson
Donna M. Evans
COHEN MILSTEIN SELLERS & TOLL PLLC
88 Pine Street, 14th Floor
New York, NY 10005

Tel.: (646) 245-8502
Fax: (609) 385-0745
jradice@radicelawfirm.com

Joseph M. Vanek
David P. Germaine
John P. Bjork
Paul E. Slater
Matthew T. Slater
SPERLING & SLATER, P.C.
55 W. Monroe, Suite 3200
Chicago, IL 60603
Telephone: (312) 641-3200
Facsimile: (312) 641-6492
jvanek@sperling-law.com
dgermaine@sperling-law.com
jbjork@sperling-law.com
pes@sperling-law.com
mslater@sperling-law.com

Tel: (212) 838-7797
Fax: (212) 838-7745
srobertson@cohenmilstein.com
devans@cohenmilstein.com

Steve D. Shadowen
Matthew C. Weiner
HILLIARD & SHADOWEN LLP
1135 W. 6th Street, Suite 125
Austin, TX 78703
Tel.: (855) 344-3298
steve@hilliardshadowenlaw.com
matt@hilliardshadowenlaw.com

Joseph H. Meltzer
Terence S. Ziegler
KESSLER TOPAZ MELTZER & CHECK LLP
280 King of Prussia Road
Radnor, PA 19087
Telephone: (610) 667-7706
Facsimile: (610) 667-7056
jmeltzer@ktmc.com
tziegler@ktmc.com

Counsel for Plaintiff FWK Holdings, LLC and the Proposed Direct Purchaser Class

Linda P. Nussbaum
NUSSBAUM LAW GROUP, P.C.
1211 Avenue of the Americas, 40th Floor
New York, NY 10036-8718
Telephone: (917) 438-9189
lnussbaum@nussbaumpc.com

Jayne A. Goldstein
SHEPHERD, FINKELMAN, MILLER &
SHAH, LLP
1625 North Commerce Parkway, Ste. 320
Fort Lauderdale, FL 33326
Telephone: (954) 515-0123
Facsimile: (866) 300-7367
jgoldstein@sfmslaw.com

Counsel for Plaintiff Cesar Castillo, Inc. and the Proposed Direct Purchaser Class

David F. Sorensen
Zachary D. Caplan
BERGER & MONTAGUE, P.C.
1818 Market Street, Suite 3600
Philadelphia, PA 19103
Telephone: (215) 875-3000
Facsimile: (215) 875-4604
dsorensen@bm.net
zcaplan@bm.net

Peter R. Kohn
Joseph T. Lukens

Barry Taus
Archana Tamoshunas
Kevin Landau
TAUS, CEBULASH & LANDAU, LLP
80 Maiden Lane, Suite 1204
New York, NY 10038
Telephone: (646) 873-7654
btaus@tcllaw.com
atamoshunas@tcllaw.com
klandau@tcllaw.com

Bradley J. Demuth

FARUQI & FARUQI, LLP
1617 John F. Kennedy Boulevard, Suite 1550
Jenkintown, PA 19103
Telephone: (215) 277-5770
Facsimile: (215) 277-5771
pkohn@faruqilaw.com
jlukens@faruqilaw.com

FARUQI & FARUQI, LLP
685 Third Avenue, 26th Floor
New York, NY 10017
Telephone: (212) 983-9330
Facsimile: (212) 983-9331
bdemuth@faruqilaw.com

Counsel for Rochester Drug Cooperative, Inc. and the Proposed Direct Purchaser Class

James A. Cales III (VSB No. 41317)
Alan Brody Rashkind (VSB No. 12658)
FURNISS, DAVIS, RASHKIND AND
SAUNDERS, PC
6160 Kempsville Circle, Suite 341B
Norfolk, Virginia 23502
Telephone: 757-461-7100
arashkind@furnissdavis.com
jcales@furnissdavis.com

Liaison Counsel for the Proposed End-Payor Class

Marvin A. Miller
Lori A. Fanning
MILLER LAW LLC
115 S. LaSalle Street, Suite 2910
Chicago, IL 60603
Telephone: (312) 332-3400
mmiller@millerlawllc.com
lfanning@millerlawllc.com

Michael M. Buchman
Michelle C. Clerkin
MOTLEY RICE LLC
777 Third Avenue, 27th Floor
New York, NY 10017
Telephone: (212) 577-0040
mbuchman@motleyrice.com
mclerkin@motleyrice.com

Co-Lead Counsel for the Proposed End-Payor Class

Adam M. Carroll (VSB No. 68017)
WOLCOTT RIVERS GATES
Convergence Center IV
200 Bendix Road, Suite 300
Virginia Beach, VA 23452
Tel.: (757) 554-0249
Fax: (757) 554-0248
acarroll@wolriv.com

Liaison Counsel for the Retailer Plaintiffs

Scott E. Perwin
Lauren C. Ravkind
Anna T. Neill
KENNY NACHWALTER P.A.
Four Seasons Tower
1441 Brickell Avenue, Suite 1100
Miami, FL 33131
Tel.: (305) 373-1000
Fax: (305) 372-1861
sperwin@knpa.com
lravkind@knpa.com
aneill@knpa.com

Counsel for Retailer Plaintiffs (No. 2:18-cv-266)

Barry L. Refsin
Monica L. Kiley
Eric L. Bloom
HANGLEY ARONCHICK SEGAL PUDLIN
& SCHILLER P.A.
One Logan Square, 27th Floor
Philadelphia, PA 19103
Tel.: (215) 568-6200
brefsin@hangley.com
mkiley@hangley.com
ebloom@hangley.com

Counsel for Retailer Plaintiffs (Nos. 2:18-cv-423 and 2:18-cv-439)

CERTIFICATE OF SERVICE

I hereby certify that on November 18, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notification of such filing (NEF) to all counsel of record who have made a formal appearance.

Dated: November 18, 2019

/s/ William H. Monroe, Jr.

William H. Monroe, Jr. (VSB No. 27441)